

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

CHRISTOPHER GARCIA,

§

Plaintiff,

§

- vs -

§

CASE NO. 3:22-cv-171

STATE FARM LLOYDS,

§

Defendant.

§

DEFENDANT STATE FARM LLOYDS' NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

STATE FARM LLOYDS (hereinafter “State Farm”), Defendant, files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 as follows:

I. PROCEDURAL BACKGROUND

1. On April 4, 2022 Christopher Garcia (“Plaintiff” or “Garcia”) filed his Original Petition (“the Petition”) in the 210th District Court of El Paso County, Texas, Cause No. 2022DCV1018 (“the State Court Action”) against Defendant State Farm Lloyds (“State Farm” or “Defendant”).¹

2. On April 14, 2022, State Farm was served with process.² State Farm filed its Answer on May 4, 2022.³

¹ See Plaintiff’s Original Petition (“Pet.”), Exhibit C. All of the filings from the State Court Action are attached hereto as Exhibits B–F. The docket sheet for the State Court Action appears at Exhibit B.

² See Exhibit F.

³ See Exhibit G.

3. State Farm timely files this Notice of Removal pursuant to 28 U.S.C. §1446 to remove the State Court Action from the 210th District Court of El Paso County, Texas, to the United States District Court for the Western District of Texas, El Paso Division.

II. NATURE OF THE SUIT

4. This lawsuit involves a dispute over the alleged non-payment or under-payment of insurance benefits and the handling of Plaintiff's insurance claims for damages allegedly caused to the Plaintiff's property.⁴ Plaintiff asserts causes of action for breach of contract, violation of the Prompt Payment of Claims Act, and bad faith.⁵

III. VENUE

5. Venue for removal is proper in this district and division under 28 U.S.C. § 1441(a) because this district and division encompass the place in which the removed action was pending, the State District Court of El Paso County, Texas, and a substantial part of the events giving rise to Plaintiff's claims allegedly occurred in this district.

IV. BASIS FOR REMOVAL

6. There is complete diversity among the parties properly joined to this suit and, according to the Plaintiff, the amount in controversy exceeds \$75,000.⁶

7. Plaintiff was, at the time this action commenced, and still is a citizen of the State of Texas.

8. For purposes of diversity jurisdiction, a person is a citizen of the state in which he or she is domiciled. *Newman-Green, Inc. v. Alfonzo-Larraín*, 490 U.S. 826, 828 (1989). “[D]omicile is established by physical presence in a place in connection with a certain state of

⁴ See generally Pet., Exhibit C.

⁵ *Id.* at ¶¶ 16-24.

⁶ *Id.* at ¶ 4.

mind concerning one's intent to remain there." *Mississippi Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 48 (1989). Here, Plaintiff is a resident of El Paso County, Texas.⁷ Plaintiff does not allege that he has any intention of leaving Texas.⁸ Therefore, upon information and belief, Plaintiff is domiciled in the State of Texas and for diversity purposes, Plaintiff is a citizen of Texas.

9. At the time the civil action commenced, State Farm was not, and still is not, a citizen of the state of Texas. State Farm is a "Lloyds Plan" organized under Chapter 941 of the Texas Insurance Code. It consists of an association of underwriters, each of whom were, at the time this civil action was commenced and still are, citizens and residents of states other than Texas making State Farm a citizen and resident of states other than Texas for diversity purposes.⁹

10. In the Petition, Plaintiff states that he seeks monetary relief of \$250,000.00 or less; the amount in controversy for Plaintiff's claims therefore exceeds the \$75,000.00 threshold amount.¹⁰ Accordingly, this action may be removed by State Farm pursuant to 28 U.S.C. § 1441(b).

V. PROCEDURAL REQUIREMENTS

11. Pursuant to 28 U.S.C. § 1446(a), the following exhibits are attached and indexed:

- Exhibit A Index of matters being filed;
- Exhibit B El Paso County Docket Sheet listing pleadings filed in the El Paso County District Court Action;
- Exhibit C Plaintiff's Original Petition, filed in the 210th District Court of El Paso County, Texas;
- Exhibit D E-Filing Request for Issuance of citation to State Farm Lloyds;

⁷ *Id.* at ¶ 1.

⁸ See *Id.*, generally.

⁹ See *Royal Ins. Co. of Am. v. Quinn-L Capital Corp.*, 3 F.3d 877, 882 (5th Cir. 1993).

¹⁰ *Id.* at ¶ 4.

Exhibit E Citation issued to State Farm Lloyds on April 11, 2022 by
Olga Rios, Deputy

Exhibit F Declaration of Mailing executed by Melissa Montemayor
regarding service upon State Farm Lloyds by certified mail;
and

Exhibit G Defendant State Farm Lloyds' Original Answer filed in the
210th District Court of El Paso County, Texas.

12. Pursuant to 28 U.S.C. § 1446(a), all pleadings, process, orders and all other filings
in the state court action are attached to this Notice.

13. Pursuant to 28 U.S.C. § 1446(d), written notice of filing of this Notice of Removal
will be given to all adverse parties promptly after filing the same.

14. Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of the Notice of Removal
will be filed with the County Clerk for the 210th District Court of El Paso County, Texas, promptly
after filing of same.

CONCLUSION

WHEREFORE, PREMISES CONSIDERED, Defendant State Farm respectfully requests
that the State Court Action be removed and placed on this Court's docket for further proceedings.
State Farm also requests any additional relief to which it may be justly entitled.

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**ATTORNEYS FOR DEFENDANT
STATE FARM LLOYDS**

CERTIFICATE OF SERVICE

I certify that on the 13th day of May, 2022, a true and correct copy of the foregoing document was served in accordance with the FEDERAL RULES OF CIVIL PROCEDURE to counsel of record:

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